

34.

**Notice of Allowability**

**Application No.**

09/728,911

**Examiner**

ILIA OUSPENSKI

**Applicant(s)**

PRESNELL ET AL.

**Art Unit**

1644

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 05/03/2004.
2. ☒ The allowed claim(s) is/are 1, 47, 50 - 53, 68 - 70, and 72 - 89 (renumbered 1-27).
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 7/19/04; 7/26/04 .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **DETAILED ACTION**

1. The examiner of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Ilia Ouspenski, Group Art Unit 1644, Technology Center 1600.

2. Applicant's amendment, filed 05/03/2004, is acknowledged and has been entered.

Claims 8 – 18, 21 – 42, 48 – 49, 54 – 66, and 71 have been cancelled.

Claims 2 – 7, 19 – 20, 43 – 46, and 67 have been cancelled previously.

Claims 50, 69, and 81 – 82 have been amended.

Claims 87 – 89 have been added.

*Claims 1, 47, 50 – 53, 68 – 70, and 72 - 89 are pending.*

### ***Examiner's Amendment***

3. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.

4. Authorization for this Examiner's Amendment was given in a telephone interview with Jennifer Johnson on 07/19/2004.

In the Claims:

In claim 77 and in claim 79, the comma " , " after the word "protein" has been deleted.

In claim 81 and in claim 82, a period -- . -- has been added at the end of the sentence after the word "domain".

5. An extension of time under 37 C.F.R. § 1.136(a) was required in order to make this Examiner's amendment to place this application in condition for allowance.

During a telephone conversation conducted on 07/26/2004, Jennifer K. Johnson, J.D., requested a one month extension of time and authorized the Commissioner to charge Deposit Account No. 26-0290 the required fee of \$55 for this extension.

***Reasons for Allowance***

6. The following is an Examiner's Statement of Reasons for Allowance:

Applicant's amendment to the claims, filed 05/03/2004, has obviated the previous rejection of record, mailed 01/29/2004.

The prior art does not appear to teach or suggest the claimed soluble cytokine receptor.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is 571-272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ILIA OUSPENSKI  
Patent Examiner  
Art Unit 1644

July 26 2004

PHILLIP GAMBEL, PH.D  
PRIMARY EXAMINER

*PHILLIP GAMBEL*  
*TECH CENTER 1600*  
*7/26/04*